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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,381	06/13/2006	Peter Kalisch	KALISCH-1 PCT	1912
25889	7590	06/05/2007		
WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			EXAMINER GIMIE, MAHMOUD	
			ART UNIT 3747	PAPER NUMBER
			MAIL DATE 06/05/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/578,381

Applicant(s)

KALISCH, PETER

Examiner

Mahmoud Gimie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5/5/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 10 and 13 are rejected under 35 U.S.C. 102(a) as being anticipated by Schindler et al. (WO 03/036214, equivalent to US 2005/00348443 A1).

Schindler et al. disclose at exchanger (1) for cooling gaseous or liquid media, particularly an exhaust heat exchanger for an internal combustion engine, with a tubular housing (2,3) which has at least one inlet opening (7,11,15,16) with an adjoining annular duct (9,10) for the distributed flow of a cooling medium into the interior of the housing, the annular duct being formed on the outside of the housing (2,3) by a duct housing surrounding a housing section (2,3) at a distance and the annular duct being connected to the housing interior via passage openings (passage of duct 9,10) distributed over the circumference of the housing (2,3), characterized in that the passage openings are designed as slots which extend at an axial distance from one another over part of the housing circumference and, together with the duct housing having a corrugated tube section (20), form an expansion element (paragraph 0039).

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Regarding claim 11, wherein next to the corrugated tube section (20) the duct housing has a cylindrical housing part, which adjoins in the axial direction and on which the inlet opening (7) with the inlet branch (not shown but inherent) is arranged.

Regarding claim 12, wherein the housing (2) is provided at the ends on the longitudinal sides with a respective flange (5) for the connection of an exhaust pipe, and in that the expansion element is provided at that end of the housing which lies on the exhaust gas inflow side (6).

Regarding claim 13, wherein the duct housing (2,3) is designed as a sheet-metal part, which is connected tightly at one end to the housing and at the other end to the flange (5) on the entry side.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schindler et al. (WO 03/036214, equivalent to US 2005/00348443 A1).

Schindler et al. disclose all the limitations as applied to claims 10-13 above, except for the expansion element is surrounded by a protective covering.

At the time the invention was made; it would have been an obvious matter of design choice to a person of ordinary skill in the art to add a protective cover to the expansion element because applicant has not disclosed that this solves a stated problem. One of

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ordinary skill in the art, further, would have expected applicant's invention to perform equally well with without a protective cover as disclosed by Schindler et al.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references show heat exchangers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mahmoud Gimie whose telephone number is 571-272-4841. The examiner can normally be reached on Monday-Friday between 7 a.m. -3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen K. Cronin can be reached on 571-272-4536. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



/Mahmoud Gimie/
Primary Examiner GAU 3747